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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120328229-4949-02]

RIN 0648-XE079

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 40 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the Harpoon category. With this transfer, the adjusted Harpoon category quota for the 2015 fishing season is 73.4 mt. The 2015 Harpoon category fishery is open until November 15, 2015, or until the Harpoon category quota is reached, whichever comes first. The action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to Atlantic tunas Harpoon category (commercial) permitted vessels.

DATES: Effective July 31, 2015, through November 15, 2015.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations.

The currently codified baseline U.S. quota is 923.7 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). Among other things, Amendment 7 revised the allocations to all quota categories, effective January 1, 2015, including base quotas of 33.4 mt for the Harpoon category and 21.4 mt for the Reserve category. See § 635.27(a). To date, NMFS has published two inseason quota transfers that have adjusted the available 2015 Reserve category quota, which currently is 74.8 mt (80 FR 7547, February 22, 2015 and 80 FR 45098, July 29, 2015).

The 2015 Harpoon category fishery opened June 1 and is open through November 15, 2015, or until the Harpoon category quota is reached, whichever comes first.

Inseason Transfer to the Harpoon Category

Under § 635.27(a)(7), NMFS has the authority to allocate any portion of the Reserve category to any other category, other than the Angling category school BFT subquota (for which there is a separate reserve), after considering determination criteria provided under § 635.27(a)(8), which are: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds; optimizing fishing opportunity; accounting for dead discards, facilitating quota monitoring, supporting other fishing monitoring programs through quota allocations and/or generation of revenue; and support of research through quota allocations and/or generation of revenue.

NMFS has considered the determination criteria regarding inseason adjustments and their applicability to the Harpoon category fishery. These considerations include, but are not limited to, the following: Biological samples collected from BFT landed by Harpoon category fishermen and provided by BFT dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status.

Continued BFT landings would support the collection of a broad range of data for these studies and for stock monitoring purposes. As of July 28, 2015, the Harpoon category has landed 33.1 mt. Without a quota transfer at this time, Harpoon category participants would have to stop BFT fishing activities with very short notice (i.e., 3 days after the date of filing of a closure notice with the Office of the Federal Register), while commercial-sized BFT remain available in the areas Harpoon category permitted vessels operate. NMFS anticipates that the Harpoon category could harvest the transferred 40 mt prior to the end of the Harpoon category season, subject to weather conditions and BFT availability.

As this action would be taken consistent with the quotas previously established and analyzed in Amendment 7 (79 FR 71510, December 2, 2014), and consistent with objectives of the 2006 Consolidated HMS FMP, it is not expected to negatively impact stock health. A principal consideration is the objective of providing opportunities to harvest the full 2015 U.S. BFT quota without exceeding it based upon the 2006 Consolidated HMS FMP goal: “Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.”

Based on all of these considerations, as well as the available quota, NMFS has determined that 40 mt of the available 74.8 mt of Reserve category quota should be transferred to the Harpoon category. The transfer would provide a reasonable opportunity to harvest the U.S. quota of BFT, without exceeding it, while maintaining an equitable distribution of fishing opportunities; help achieve optimum yield in the BFT fishery; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006

Consolidated HMS FMP and its amendments. Therefore, NMFS adjusts the Harpoon category quota to 73.4 mt for the 2015 Harpoon category fishing season (i.e., through November 15, 2015, or until the Harpoon category quota is reached, whichever comes first). NMFS has considered the fact that it has published a proposed BFT quota rule that would implement and give domestic effect to the 2014 ICCAT recommendation on western Atlantic BFT management, which increased the U.S. BFT quota for 2015 and 2016 by 14 percent from the 2014 level (80 FR 33467, June 12, 2015). The domestic subquotas proposed in that action would result from application of the allocation process established in Amendment 7 to the 2006 Consolidated HMS FMP to the increased U.S. quota, and would include an increase in the Harpoon category quota from the currently codified 33.4 mt to 38.6 mt. Although the proposed rule would increase the baseline Harpoon category quota by 5.2 mt, NMFS is transferring 40 mt at this time regardless of the proposed quota increase.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely through the mandatory dealer landing reports, which NMFS requires to be submitted within 24 hours of a dealer receiving BFT. General, HMS Charter/Headboat, Harpoon, and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov*. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustment or closure is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent Harpoon category adjustments will be published in the **Federal Register**. In addition, fishermen may call the

Atlantic Tunas Information Line at (978) 281-9260, or access *hmspermits.noaa.gov*, for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons.

The regulations implementing the 2006 Consolidated HMS FMP, as amended, provide for inseason adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery.

Affording prior notice and opportunity for public comment to implement the quota transfer for the remainder of 2015 is impracticable and contrary to the public interest as such a delay would likely result in closure of the Harpoon fishery when the base quota is met and the need to re-open the fishery, with attendant administrative costs and costs to the fishery. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.27(a)(7) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 30, 2015

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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